

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELZIE NEELEY GAS COMPANY'S)	
FAILURE TO COMPLY WITH THE)	CASE NO. 9878
COMMISSION'S REGULATIONS)	

O R D E R

This proceeding was instituted on March 10, 1987, by an Order directing Elzie Neeley Gas Company ("Elzie Neeley") to appear and show cause why it should not be fined pursuant to KRS 278.990 for violating KRS 278.230 and 807 KAR 5:006, Section 3(3), failure to respond to an inspection report and to take corrective action.

On June 25-26, 1986, a comprehensive safety inspection of Elzie Neeley's system was performed, and a copy of the inspection report was mailed to Elzie Neeley on July 2, 1986, requiring that a response be made before August 15, 1986. No response was received, and a reminder letter was sent January 8, 1987. The information which required a response included certain deficiencies which relate to gas safety: an inaccessible exterior shut-off valve, atmospheric corrosion on meter sets, and excessive corrosion on the riser at a housing project.

On April 8, 1987, Elzie Neeley responded to the July 2, 1986, Order, stating that all the deficiencies except meter history cards had been corrected, and that they would be ready within 30 days. During the April 9, 1987, hearing Mike Little, owner and operator of Elzie Neeley, testified that all the deficiencies had

been corrected, and that his response to the inspection report had been late because he was waiting ". . . until I got the system finished (so) I could answer all of these recommendations and be done with it."¹ He promised in the future to provide periodic updates regarding work completed or in progress required as the result of an inspection.

The Commission notes that more than 7 months elapsed before Mr. Little responded to the July 2, 1986, inspection report. Timely response to a safety inspection and Commission Order is necessary to determine what corrective action has been taken, or when the corrective action is scheduled, and if any follow-up action is necessary. A timely response also demonstrates a good faith effort on the operator's part to comply with the regulations. In this instance Mr. Little made no effort to advise the Commission of the status of compliance, nor did he request an extension of time. The Commission conducted a follow-up inspection on November 11, 1986, to determine the degree of compliance regarding the deficiencies noted in the June 1986 inspection.

Given Mr. Little's experience in operating Elzie Neeley and two other gas utilities jurisdictional to the Commission, Mr. Little should be familiar with the Commission's rules and regulations. The Commission concludes that there is no legitimate excuse for the lengthy delay in responding to the inspection report. Therefore, the Commission is of the opinion that a fine

¹ Transcript of Evidence, April 9, 1987, page 6.

should be assessed against Elzie Neeley for its failure to respond to a Commission Order.

After reviewing the record and being advised, the Commission is of the opinion and hereby finds that:

1. Mr. Little, as owner and operator of Elzie Neeley, was directed to respond before August 15, 1986, to an inspection report dated July 2, 1986. With no response, a reminder letter was sent January 8, 1987.

2. A response to the inspection report was filed by Mr. Little on April 8, 1987, more than 7 months beyond the response time required.

3. The information in the inspection report which required a response included certain deficiencies which relate to the safe operation of a gas utility. Only through its own initiative on November 11, 1986, was the Commission able to determine that any corrections had been made to these deficiencies.

4. Mr. Little has agreed to respond to inspection reports in the future and, when necessary, provide periodic updates regarding the status of deficiencies corrected.

5. Pursuant to KRS 278.990, Elzie Neeley should be assessed a fine for its failure to respond to the inspection report in a timely manner.

6. Within 30 days of the date of this Order, Elzie Neeley should issue a check to the Commission in the amount of \$700

payable to the State Treasurer. Said fine should be mailed to Ms. Leigh Hutchens, Public Service Commission, P. O. Box 615, Frankfort, Kentucky 40602.

IT IS THEREFORE ORDERED that:

1. Pursuant to KRS 278.990, Elzie Neeley shall be and hereby is assessed a fine in the amount of \$700 for its failure to comply with KRS 278.230 and 807 KAR 5:006, Section 3(3).

2. Elzie Neeley shall comply with the directions set forth in Finding Nos. 4 and 6 as if the same were individually ordered.

Done at Frankfort, Kentucky, this 12th day of June, 1987.

PUBLIC SERVICE COMMISSION

Richard D. Hemmelf
Chairman

[Signature]
Vice Chairman

James H. Williams
Commissioner

ATTEST:

Forest M. Slagg
Executive Director